

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FERRARI FINANCIAL SERVICES,

Plaintiff,

v.

ZCRETE SYSTEMS INTERNATIONAL,
INC., a Washington corporation; BRIAN
WAYNE BROGIE, an individual,

Defendants.

Case No. 2:21-cv-00198-RAJ

ORDER

I. INTRODUCTION

THIS MATTER comes before the Court on Plaintiff's renewed motion for attorney's fees, Dkt. # 28, and motion to seal the Declaration of Tanya N. Lewis filed in support of the renewed motion for attorney's fees, Dkt. # 30. These motions are unopposed. For the reasons below, the motion for attorney's fees is **GRANTED**, Dkt. # 28, and the motion to seal is **DENIED**, Dkt. # 30.

II. DISCUSSION

The Court had denied Plaintiff's prior motion for attorney's fees and its motion to seal Ms. Lewis's declaration. Dkt. # 27. The Court will address each renewed motion in turn.

A. Motion for Attorney's Fees

In its prior order, the Court found that Plaintiff was entitled to attorney's fees as

1 the prevailing party under Washington law and based on the terms of the lease agreement
 2 at issue. *Id.* at 2-3. The Court also found that the attorneys' hourly rates requested were
 3 reasonable. *Id.* at 2-3. The Court incorporates these and all other findings from its prior
 4 order here. *Id.*

5 The Court determined, however, that Plaintiff failed to provide sufficient evidence
 6 to meet "the burden of showing the time spent and that it was reasonably necessary to the
 7 successful prosecution" of the case. *Id.* at 3 (quoting *Frank Music Corp. v. Metro-*
 8 *Goldwyn-Mayer Inc.*, 886 F.2d 1545, 1557 (9th Cir. 1989)). Plaintiff failed to provide
 9 any details or information accounting for the hours spent or demonstrate why the number
 10 of hours requested was reasonably necessary. The Court therefore denied the motion
 11 without prejudice, permitting Plaintiff to re-file an amended motion addressing the
 12 deficiencies. Dkt. # 27 at 5.

13 Plaintiff timely re-filed an amended motion and submitted a declaration and a
 14 billing history accounting for the hours worked. Dkt. # 29-1. The Court finds that this
 15 evidence is sufficient to establish the time spent and that it was reasonable and necessary
 16 to the successful prosecution of this action. The Court therefore **GRANTS** attorney's
 17 fees in the amount requested of \$23,046.44. Dkt. # 28.

18 **B. Motion to Seal Declaration of Tanya N. Lewis**

19 Plaintiff's renewed motion to seal the declaration of Tanya N. Lewis, Dkt. # 30, is
 20 identical to its prior motion, Dkt. # 22, which was denied by the Court, Dkt. # 27.
 21 Although Plaintiff has added an exhibit in support of its motion for attorney's fees,
 22 Plaintiff does not move the Court to seal this exhibit. Instead, Plaintiff moves for leave to
 23 seal the declaration of Ms. Lewis, Dkt. # 31, which is also almost identical to the prior
 24 version filed, Dkt. # 23, and which the Court determined was not appropriate to seal.

25 As the Court previously noted, under the local rules, there is "a strong
 26 presumption of public access to the court's files." Local Rules W.D. Wash. LCR 5(g). A
 27 motion to seal a document must include an explanation of "the legitimate private or

1 public interests that warrant the relief sought . . . the injury that will result if the relief
2 sought is not granted.” LCR 5(g)(3). A party seeking to seal records attached to non-
3 dispositive motions must show “good cause” under Rule 26(c). *Kamakana v. City & Cty.*
4 *of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006). “A party asserting good cause bears
5 the burden, for each particular document it seeks to protect, of showing that specific
6 prejudice or harm will result.” *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122,
7 1130 (9th Cir. 2003). The Ninth Circuit has held that “[b]road allegations of harm,
8 unsubstantiated by specific examples or articulated reasoning, do not satisfy the Rule
9 26(c) test.” *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992)
10 (internal citation omitted).

11 For the same reasons identified in the prior order, the Court finds that Plaintiff has
12 failed to establish good cause to seal the declaration. Plaintiff has not demonstrated any
13 legitimate private or public interests that warrant the relief sought pursuant to the
14 district’s local rules. Local Rules W.D. Wash. LCR 5(g). Plaintiff’s reliance on *Sun Life*
15 *Assurance Co. of Canada v. O’Connor*, No. C16-0799-JCC, 2017 WL 1479470, at *1
16 (W.D. Wash. Apr. 25, 2017) is misplaced, as the request to seal in that matter involved a
17 30-page exhibit containing detailed attorney services and attorney-client relationship
18 material. In that case, the Court *did not* seal the attorney’s declaration, which
19 summarized the experience of the attorneys and fees and costs of litigation.

20 Again, the Court notes that Plaintiff already publicly disclosed the hourly rates of
21 the attorneys in the unsealed motion for attorney’s fees. Dkt. # 28 at 4-5. The scope of
22 work described in the declaration in general terms does not constitute confidential or
23 proprietary information, but rather describes basic litigation activity, including “sending
24 several demand letters, preparing and serving the summons and complaint, preparing
25 initial disclosures, attempting to locate [Defendants], multiple phone calls, preparing an
26 entry of default . . . [and] a motion for default judgment.” Dkt. # 31 ¶ 4. The remainder
27 of the declaration, including the education and experience of the attorneys, contains no

1 confidential or proprietary information as alleged. *Id.* ¶ 2-3. Plaintiff has again failed to
2 show prejudice or harm that may result from public disclosure of the declaration at issue.
3 *See* 331 F.3d at 1130. The motion to seal is therefore **DENIED**.

4 **III. CONCLUSION**

5 For the reasons stated above, Plaintiff's Motion for Attorney's Fees is
6 **GRANTED**. Dkt. # 28. Plaintiff is awarded its attorney's fees of \$23,046.44. Plaintiff's
7 Motion for Leave to File Under Seal Declaration of Tanya N. Lewis in Support of Ferrari
8 Financial Services, Inc.'s Renewed Motion for Attorney's Fees is **DENIED**. Dkt. # 30.
9 The clerk will unseal the declaration, Dkt. # 31, pursuant to Local Rule 5(g)(6).

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11 DATED this 21st day of June, 2022.

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14 The Honorable Richard A. Jones
15 United States District Judge
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